

ESTTA Tracking number: **ESTTA64881**

Filing date: **02/02/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92044526
Party	Plaintiff Love in Love, Inc. d/b/a Family Labels
Correspondence Address	Mary Margeret L. O'Donnell Rader, Fishman & Grauer, PLLC 39533 Woodward Avenue, Suite 140 Bloomfield Hills, MI 48304 tmdocketing@raderfishman.com, mmlo@raderfishman.com
Submission	Motion to Extend
Filer's Name	Mary Margaret L. O'Donnell
Filer's e-mail	tmdocketing@raderfishman.com, mmlo@raderfishman.com
Signature	/Mary Margaret L. O'Donnell/
Date	02/02/2006
Attachments	Motion to Extend.pdf (56 pages)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

LIVE IN LOVE, INC.,
d/b/a FAMILY LABELS,

Petitioner,

v.

Cancellation No.: 92044526
Registration No.: 2,908,824
Mark: FAMILY DOODLES
Our Ref: 65913-0022

LAURA N. SHEPPARD,
d/b/a SIGNS OF AFFECTION,

Respondent.

_____/

**MOTION AND BRIEF IN SUPPORT OF MOTION
TO EXTEND DISCOVERY AND TESTIMONY PERIODS**

Petitioner, Live in Love, Inc. d/b/a Family Labels (“Petitioner”), by and through its attorneys, Rader, Fishman & Grauer PLLC, pursuant to TBMP §§ 509.01 and 509.02, C.F.R. § 2.120(a) and Fed. R. Civ. P. 6(b), respectfully requests that the Trademark Trial and Appeal Board (the “Board”) extend the discovery and testimony periods in the above-identified cancellation proceeding for a period of 120 days set to run from the date of the Board’s decision on the Motion to Extend (the “Motion”).

Given that the supervising attorney on this matter will shortly be out on maternity leave, that Respondent, Laura N. Sheppard d/b/a Signs of Affection (“Respondent”), has not executed the Protective Order that will permit the parties to complete discovery, that Respondent has failed to provide available deposition dates, that Respondent’s counsel

himself has previously requested an extension to respond to discovery requests due to his own “vacations” and “business matters,” that this request is being made prior to expiration of the discovery period, and that Respondent’s counsel has not expressed whether he formally opposes or supports this motion, Petitioner submits that there is good cause for extending the Discovery and Testimony Periods and requests that the present Motion be granted.

**BRIEF IN SUPPORT OF MOTION TO EXTEND
DISCOVERY AND TESTIMONY PERIODS**

I. STATEMENT OF FACTS.

The discovery period is set to close on February 3, 2006. As this Motion is being made prior to the close of such period, it is timely. Counsel for both parties have exchanged and responded to discovery requests and have exchanged drafts of a Protective Order. Counsel for Petitioner sent a draft Protective Order to counsel for Respondent in June 2005 along with its first set of discovery requests. See June 11, 2005 correspondence at **Exhibit A**. Notably, Respondent’s counsel requested an extension to respond to such discovery based on “family vacations and other business matters,” stating that he hoped he would not have to move “the Board for an extension that would be easily granted.” See July 6, 2005 correspondence at **Exhibit B**. As a professional courtesy, Petitioner’s counsel granted such request for an extension and followed up with Respondent on review of the Protective Order. See July 8, 2005 correspondence at **Exhibit C**.

Pursuant to Respondent’s request, Petitioner forwarded to Respondent an alterable copy of the Protective Order that same month. See July 13, 2005 correspondence at **Exhibit D**. Petitioner received a redlined copy of Protective Order from Respondent in August 2005.

See August 7, 2005 correspondence at **Exhibit E**. Petitioner further revised the Protective Order and sent it to Respondent. See October 3, 2005 correspondence at **Exhibit F**. Petitioner followed up with Respondent on its review of the revised Protective Order later that same month. See Petitioner's October 31, 2005 correspondence at **Exhibit G**. That same day, Respondent's counsel stated that he believed he was waiting on Petitioner's review of Respondent's revisions to the Protective Order. See Respondent's October 31, 2005 correspondence at **Exhibit H**. Petitioner responded right away that it had sent the revised Protective Order to Respondent on October 3, 2005 along with Petitioner's discovery responses. See Petitioner's November 1, 2005 correspondence at **Exhibit I**. Respondent noted on November 3, 2005 that it had not received such package and requested the discovery responses and revised protective order from Petitioner. See November 3, 2005 correspondence at **Exhibit J**. Petitioner immediately forwarded to Respondent electronic copies of all discovery responses and another copy of the revised Protective Order via e-mail. See November 4, 2005 correspondence at **Exhibit K**. Respondent confirmed receipt. See November 8, 2005 correspondence at **Exhibit L**.

Petitioner did not hear back from Respondent on the revised Protective Order and forwarded a fresh copy to Respondent via e-mail in January 2006, requesting the status of review of same, available deposition dates, and whether Respondent would consent to a four-month extension of the discovery and testimony periods given Petitioner's inability to travel due to an advanced state of pregnancy and imminent absence from the office for maternity leave. See Petitioner's January 31, 2006 correspondence at **Exhibit M**.

Respondent responded noting only that he would have to confirm with his client and stated again that he had never received Petitioner's discovery responses. See Respondent's January 31, 2006 correspondence at **Exhibit N**. Petitioner immediately responded to Respondent that Petitioner had in fact sent its discovery responses to Respondent and that Respondent had even confirmed receipt of same. See Petitioner's January 31, 2006 correspondence at **Exhibit O**. Nonetheless, Petitioner again sent to Respondent via e-mail electronic copies of all discovery responses previously served and requested whether Respondent would consent to the extension. See Petitioner's January 31, 2006 correspondence at **Exhibit P**. When Respondent failed to answer Petitioner's inquiry, Petitioner telephoned Respondent leaving a voicemail message and sent a further inquiry via e-mail requesting consent for the extension. See Petitioner's February 1, 2006 correspondence at **Exhibit Q**. Again, Respondent failed to respond. Petitioner again contacted Respondent by voicemail requesting consent to extend all deadlines.

In response, Respondent simply stated that he had not heard back from his client on the extension request, but that he was sure that his client would view Petitioner's counsel's request for an extension due to her maternity leave as "merely an unnecessary delay" because Petitioner's counsel's "website indicates a number of other attorney's [sic] who appear capable of dealing with this case during [Petitioner's counsel's] absence." See Respondent's correspondence of February 2, 2006 at **Exhibit R**. Instead of attempting to contact his client and instead of either expressly providing or refusing to provide consent, Respondent's counsel advised Petitioner to simply file the present Motion. *Id.*

In response, Petitioner again called Respondent, who again failed to answer his phone, even though Respondent's receptionist confirmed that Respondent was in the office. Petitioner thus responded to Respondent's correspondence in writing, reminding Respondent that he had failed to execute the Protective Order, that the Order needs to be executed prior to the parties' completion of discovery and the taking of depositions, that Petitioner is requesting an extension and not a suspension, and that discovery is expected to continue during Petitioner's counsel's maternity leave with Petitioner's counsel desiring to schedule the depositions when she is permitted to fly again and has returned to the office from such leave. See Petitioner's February 2, 2005 correspondence at Exhibit S. Petitioner received no response to such correspondence.

II. ARGUMENT.

The Trademark Trial and Appeal Board Manual of Procedure ("TBMP") provides that parties may extend a prescribed period prior to expiration of that period where good cause for the requested extension is shown. TBMP §509.01. The discovery period may be extended upon stipulation of the parties approved by the Board, upon motion granted by the Board, or by order of the Board pursuant to 37 CFR §2.120(a). Given that Respondent has expressly refused to state whether he consents to or opposes an extension of the discovery and testimony periods in this matter, Petitioner has no choice but to file the present Motion, incurring unnecessary costs and unnecessarily impinging on the Board's time and resources.

Despite Petitioner's efforts and Respondent's own failure to execute the Protective Order (which prohibits the parties from completing discovery), Respondent has evaded addressing Petitioner's request for consent. Respondent has stated only that he has not "heard

back” from his client on the extension request, but that he is sure that Petitioner’s request would be viewed by Ms. Sheppard as an “unnecessary delay.” See Exhibit R. Notwithstanding Respondent’s prior request for an extension of time for Respondent to answer Petitioner’s discovery requests due to his “family vacations and other business matters” (see Exhibit B), Respondent’s counsel gives the impression that Petitioner’s counsel’s imminent maternity leave is a concocted excuse to cause “unnecessary delay” in this proceeding. Respondent’s characterization of Petitioner’s request for an extension of the discovery deadlines based on Petitioner’s approaching maternity leave as a delay tactic is puzzling (not to mention sexist), when Respondent’s counsel has previously requested an extension to respond to discovery based on his own “vacations and other business matters” and especially when Respondent’s counsel has failed to return the Protective Order that would permit the parties to move forward with their respective discovery obligations.

As shown above in the Statement of Facts, Petitioner served discovery and provided a draft Protective Order to Respondent very early on in this proceeding and has diligently followed up with Respondent regarding same, repeatedly noting that discovery cannot be completed by the parties absent execution of such document.

Petitioner submits that it has been diligent in moving this matter forward, that it has responded to Respondent’s discovery requests, that it has sought available deposition dates, that it has extended the professional courtesy of an extension to Respondent due to his “family vacations and other business matters,” that it has repeatedly followed up with Respondent regarding the status of execution of the Protective Order, and that the 120-day extension is merely being requested to allow the parties sufficient time to meet their respective discovery

obligations in light of Petitioner's counsel's imminent maternity leave and in light of Respondent's counsel's hindering of the completion of discovery by failing to execute the Protective Order. In short, Petitioner has not delayed in this proceeding and has specified detailed facts that constitute good cause as required by Fed.R.Civ.P. 6(a). In light of these facts, Petitioner submits that it has demonstrated good cause for the extension.

Further, the Board has been liberal in granting extensions of time before the period in question has lapsed, "so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused." See *American Vitamin Products Inc. v. Dow Brands Inc.*, 22 USPQ2d 1313, 1314 (TTAB 1992); *Sunkist Growers, Inc. v. Benjamin Ansehl Co.*, 229 USPQ 147 (TTAB 1985). As this is Petitioner's first extension request without express consent, Petitioner submits that it has not abused the extension process. Moreover, Petitioner has worked diligently to keep this case moving forward as evidenced by its early serving of discovery and its repeated reminders to Respondent regarding the importance of executing the Protective Order so that the parties may complete their respective discovery obligations. Finally, given that Respondent has failed to commit to either granting consent or refusing to grant consent for the present Motion, Petitioner submits that such equivocation has resulted in the incurring of unnecessary expense by Petitioner and the wasting of the Board's time and resources and thus should be weighed in Petitioner's favor by granting the instant Motion.

III. CONCLUSION.

In accordance with the foregoing showing of good cause, Petitioner requests a 120-day extension of the Discovery and Testimony Periods and that the new periods be set to run from


the date of the Board's decision on the Motion. Finally, given Petitioner's counsel's imminently approaching maternity leave, and pursuant to 1235 TMOG 68, Petitioner requests that this Motion be resolved on an expedited basis by telephone conference, with Petitioner's counsel arranging and initiating same.

Respectfully submitted,

RADER, FISHMAN & GRAUER PLLC

Dated: February 2, 2006

By:


Mary Margaret L. O'Donnell
Attorney for Petitioner
39533 Woodward Avenue, Suite 140
Bloomfield Hills, Michigan 48304
Telephone (248) 594-0600
Facsimile (248) 594-0610

CERTIFICATE OF TRANSMITTAL

I hereby certify that this correspondence is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the following date:

Dated: February 2, 2006

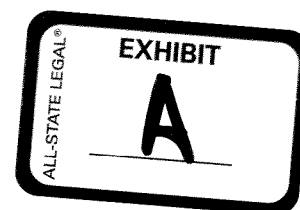
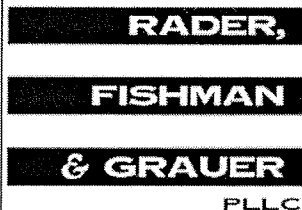

Mary Margaret L. O'Donnell

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion been served upon the following party as noted below via e-mail to mharris@digital-trademarks.com and via United States Postal Service first class mail with postage fully pre-paid on February 2, 2006:

Marc Harris
Harris Chawla LLC
500 N. Michigan Avenue, Ste. 300
Chicago, Illinois 60611


Mary Margaret L. O'Donnell



39533 Woodward Ave., Ste. 140
Bloomfield Hills, Michigan 48304
Tel: (248) 594-0600
Fax: (248) 594-0610

Mary Margaret L. O'Donnell
(248) 594-0649
mmlo@raderfishman.com

VIA FIRST CLASS MAIL ONLY

June 11, 2005

Mr. Marc Harris
Harris Chawla
500 N. Michigan Avenue
Suite 300
Chicago, Illinois 60611

Re: Cancellation No.
Our Reference: 65913-7000

Dear Mr. Harris:

We have now had the opportunity to review the points raised in your May 30, 2005 letter with our client. As we discussed last week, we do not agree with your evaluation of the likelihood of confusion factors and see no basis for the settlement that you propose.

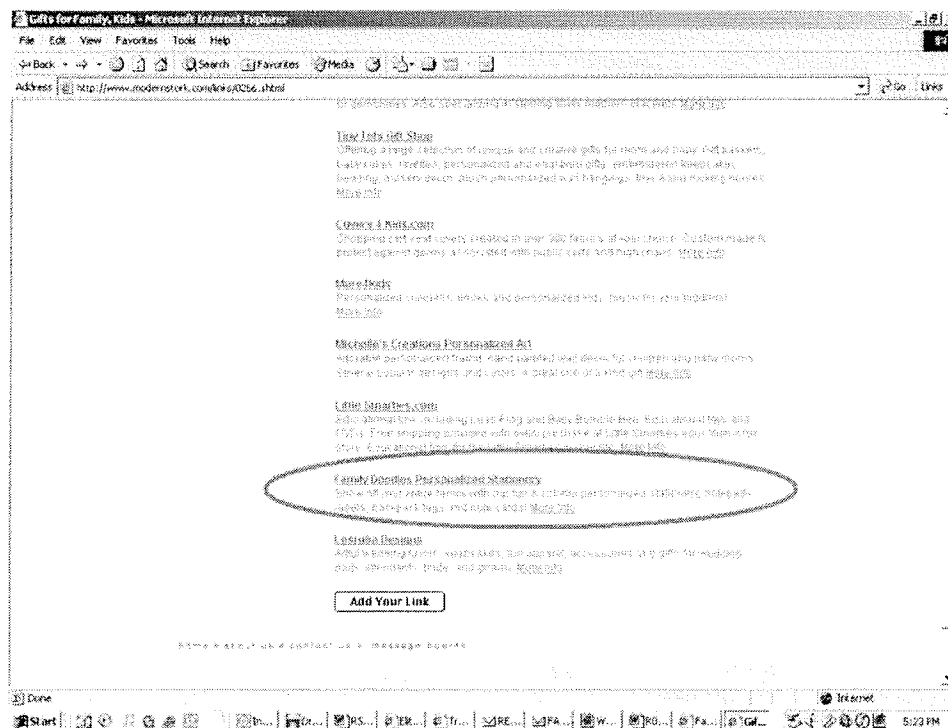
Although we think the majority of your letter does not merit a response, we must emphasize that you appear to have a misconception about the parties' respective goods and also the underlying facts of this matter. As we discussed on the phone, it is both our position and the U.S. Patent and Trademark Office's position that our client's goods are "stationery" goods. As you may note, our client's FAMILY LABELS registration covers the "stationery class" (Class 16) and even recites the word "stationery" in the specification of goods. Given that both parties offer stationery goods and that your client's alleged date of first use of the FAMILY DOODLES mark is 2003, the statement that your client "clearly has priority" is mistaken.

Further, given that your client offered labels and tags for sale, your assertion that Family Doodles "does not use its mark in connection with any of the goods identified in [y]our client's registration" is false. See the snapshot below from your client's website and from your client's Internet advertising, with the relevant portions circled:

Personalized Stationery & Note cards

Each year, students study for the Young Men's and Women's Leadership Award.

Notepads & Stationery - Paper and envelopes. White, Blue, Green, Canyon Print, Turn of the Century

[illegible]

RADER,

FISHMAN

& GRAUER

PLLC

Mr. Marc Harris

June 11, 2005

Page 3

Although we agree that this matter should be resolved without protracted legal proceedings, you must understand our client's need to enforce its intellectual property rights. Given the direct overlap of goods and our client's priority, we see no basis for the coexistence you propose and take this opportunity to enclose a first set of discovery as well as a draft protective order.

Sincerely,

RADER, FISHMAN & GRAUER PLLC

A handwritten signature in dark ink, appearing to read 'M. O'Donnell', with a long, sweeping horizontal stroke extending to the right.

Mary Margaret L. O'Donnell

enclosures



Mary Margaret L. O'Donnell

From: Marc Harris [mharris@digital-trademarks.com]
Sent: Wednesday, July 06, 2005 8:40 AM
To: Mary Margaret L. O'Donnell
Subject: RE: Trademark Matter: FAMILY LABELS

Ms. O'Donnell: Due to family vacations and other business matters, we have had some difficulty in consulting with our client, an individual, in an attempt to respond to the Family Labels discovery requests. While we could simply provide minimally responsive answers to the discovery and meet the upcoming deadline, our preference is to provide you with substantive and meaningful responses that can move the opposition proceeding forward. To that end, please let me know if you any issues with granting Family Doodles an extension of time to respond to the Family Labels Discover up to and including August 11, 2005. We look forward to receiving your timely response and hope that moving the Board for an extension that would be easily granted will not be necessary. Should you have any questions or care to discuss, please do not hesitate to contact me. Thank you.

Marc Harris
Harris Chawla LLC
500 N. Michigan Ave., Suite 300
Chicago, IL 60611
T: 312-692-0119
F: 312-577-0928
mharris@digital-trademarks.com
Digital-Trademarks.com

From: Marc Harris [mailto:mharris@digital-trademarks.com]
Sent: Monday, May 30, 2005 12:00 PM
To: 'MMLO@raderfishman.com'
Cc: 'mchawla@digital-trademarks.com'; 'ejimenez@digital-trademarks.com'
Subject: RE: Trademark Matter: FAMILY LABELS

Ms. O'Donnell:

Please review the attached correspondence. Once you have reviewed, please contact me to discuss. I look forward to hearing from you.

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From: Mary Margaret L. O'Donnell [mailto:MMLO@raderfishman.com]
Sent: Thursday, May 19, 2005 3:20 PM
To: info@signsofaffection.com
Cc: Litigation Paralegals; Linda E. Sudzina
Subject: Trademark Matter: FAMILY LABELS

<<Letter FAMILY DOODLES.pdf>> <<Exhibits.pdf>>
65913-0022

Attn: Ms. Laura N. Sheppard

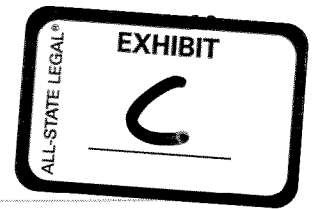
Dear Ms. Sheppard:

Please see the attached correspondence and exhibits. We look forward to hearing from you.

Best regards,

Mary Margaret L. O'Donnell, Esq.
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39533 Woodward Ave., Suite 140
Bloomfield Hills, Michigan 48304
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mmlo@raderfishman.com

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Mary Margaret L. O'Donnell

From: Mary Margaret L. O'Donnell
Sent: Friday, July 08, 2005 7:49 AM
To: 'Marc Harris'
Cc: Litigation Paralegals
Subject: RE: Trademark Matter: FAMILY LABELS

65913-0022

Dear Mr. Harris:

It seems unlikely that you would need a full 30 days after having over this time period to respond, but we will give you the benefit of the doubt and grant you the 30-day extension on condition that a reciprocal extension for the same time period is granted to Family Labels to respond to Ms. Sheppard's discovery.

What is the status of your review of the protective order?

Best regards,

Mary Margaret

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Sent: Monday, May 30, 2005 12:00 PM
To: 'MMLO@raderfishman.com'

Cc: 'mchawla@digital-trademarks.com'; 'ejimenez@digital-trademarks.com'
Subject: RE: Trademark Matter: FAMILY LABELS

Ms. O'Donnell:

Please review the attached correspondence. Once you have reviewed, please contact me to discuss. I look forward to hearing from you.

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Sent: Thursday, May 19, 2005 3:20 PM
To: info@signsofaffection.com
Cc: Litigation Paralegals; Linda E. Sudzina
Subject: Trademark Matter: FAMILY LABELS

<<Letter FAMILY DOODLES.pdf>> <<Exhibits.pdf>>
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Attn: Ms. Laura N. Sheppard

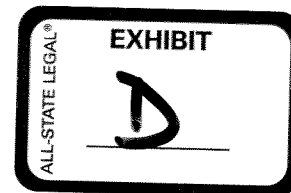
Dear Ms. Sheppard:

Please see the attached correspondence and exhibits. We look forward to hearing from you.

Best regards,

Mary Margaret L. O'Donnell, Esq.
 Rader, Fishman & Grauer PLLC
 39533 Woodward Ave., Suite 140
 Bloomfield Hills, Michigan 48304
 +1-248-594-0649 direct
 +1-248-594-0610 facsimile
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Mary Margaret L. O'Donnell

From: Mary Margaret L. O'Donnell
Sent: Wednesday, July 13, 2005 4:39 PM
To: 'Marc Harris'
Cc: Linda E. Sudzina; Litigation Paralegals
Subject: RE: Trademark Matter: FAMILY LABELS

65913-0022

Dear Mr. Harris:

We have made note of the mutual extension and attach the standard protective order in alterable format. To address your concerns raised below, Respondent is identified in the protective order as she is in the PTO records ("Laura N. Sheppard d/b/a Signs of Affection"). As to the remaining comments, we are sure you will be able to address whatever you believed to be incorrect by returning a redlined copy to us. Finally, as this is a TTAB proceeding, we believe that a modified version of the TTAB's standard protective order is sufficiently tailored to protect the parties.

We look forward to receiving your comments in short order.

Best regards,

Mary Margaret

-----Original Message-----

From: Marc Harris [mailto:mharris@digital-trademarks.com]
Sent: Monday, July 11, 2005 8:34 AM
To: Mary Margaret L. O'Donnell
Cc: 'Mona Chawla'; ejimenez@digital-trademarks.com
Subject: RE: Trademark Matter: FAMILY LABELS

Ms. O'Donnell:

Thank you for your email below and granting us additional time to respond to your discovery requests. I agree that it is unlikely that we will need a full 30 days to finalize our responses to your discovery requests. We have no issues with granting you the professional courtesy of a reciprocal extension.

We have reviewed the draft protective order forwarded to our office. The document contains a number of typographical errors, misidentifies our client and my law firm. Further, the document simply appears to have been printed off the USPTO web site with slight modifications deleting key provisions of the Board's standard protective order. To say the least, the document is not narrowly tailored to this proceeding or the parties involved. Please forward a soft copy of your document to my attention via email so that we can propose suggested changes via redline. Alternatively, we can forward to your attention a protective order acceptable to our client.

Should you have any questions, please feel free to contact me to discuss. Thank you.

Marc Harris
Harris Chawla LLC

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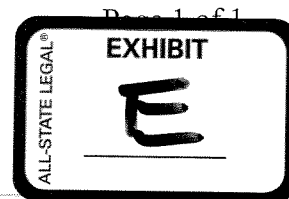
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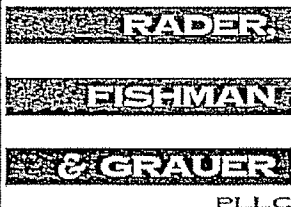
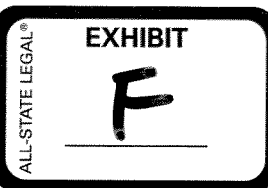


Mary Margaret L. O'Donnell

From: Marc Harris [mharris@digital-trademarks.com]
Sent: Sunday, August 07, 2005 10:03 PM
To: Mary Margaret L. O'Donnell
Subject: Trademark Matter: FAMILY LABELS

Attached for your review is the redlined protective order incorporating our suggested changes. While an initial look appears to reveal a number of changes, the changes are bilateral in nature and nothing that our client is not willing to be contractually obligated to herself. Once you have reviewed my changes, please contact me to discuss any issues or concerns. If you have no issues with our changes, please accept the redline and forward partially executed copies to my attention at the address below. Once received, we will forward fully executed copies to your attention. Thanks.

Marc Harris
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Chicago, IL 60611
T: 312-692-0119
F: 312-577-0928
mharris@digital-trademarks.com
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Fax: (248) 594-0610

Mary Margaret L. O'Donnell
(248) 594-0649
mmlo@raderfishman.com

VIA FIRST CLASS MAIL ONLY

October 3, 2005

Mr. Marcus Stephen Harris
Harris Chawla LLC
500 N. Michigan Ave., Suite 300
Chicago, Illinois 60611

Re: Cancellation No. 92044526, FAMILY DOODLES; Our Reference: 65913-0022

Dear Mr. Harris:

Please find enclosed the revised Protective Order and Family Labels' responses to Ms. Sheppard's interrogatories, document requests and admission requests. As you proposed, we will supplement the responses with information and documentation once the Protective Order has been entered.

With regard to the Protective Order, we have accepted a number of your proposed revisions, but wanted to comment specifically on the following. First, because Ms. Sheppard is referred to as "Respondent" in other documentation, we kept the same designation in the Protective Order for consistency. Second, we see no reason to have more than two classes of Protected Information – either the information is marked as CONFIDENTIAL and is shielded from the public or it is marked as ATTORNEYS EYES ONLY and is shielded from both the public access and the parties. The "highly confidential" designation you proposed does not add anything to either of these two classifications. Third, unless Ms. Sheppard has an in-house attorney (which is doubtful as she is an individual and not a corporation), then it does not make sense to define "Attorneys" as in-house and outside counsel in 3(b) and then to restrict access to ATTORNEYS EYES ONLY information/documents to outside counsel later in paragraph 3. We confirm that Family Labels does not have any in-house counsel. Fourth, regarding disclosure to third parties, all such parties are required to execute Exhibit A, which requires them to be bound by the terms of the Protective Order. As such, it is not necessary to add the proposed additional language to paragraphs 4 and 11.

Sincerely,

RADER, FISHMAN & GRAUER PLLC

Mary Margaret L. O'Donnell

enclosures

Mary Margaret L. O'Donnell



From: Mary Margaret L. O'Donnell
Sent: Monday, October 31, 2005 5:12 PM
To: 'mharris@digital-trademarks.com'
Cc: Litigation Paralegals; Linda E. Sudzina
Subject: FAMILY DOODLES Proceeding

65913-0022

Dear Marc:

We hope you are well. Please let us know if you have had the opportunity to review the Protective Order we last sent so that we may each supplement our respective discovery responses and get the document exchange underway.

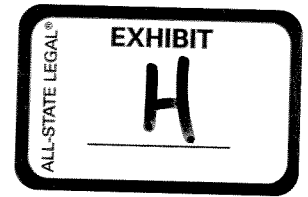
We look forward to hearing from you.

Best regards,

Mary Margaret

Mary Margaret L. O'Donnell, Esq.
Rader, Fishman & Grauer PLLC
39533 Woodward Ave., Suite 140
Bloomfield Hills, Michigan 48304
+1-248-594-0649 direct
+1-248-594-0610 facsimile
mmlo@raderfishman.com

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Mary Margaret L. O'Donnell

From: Marc Harris [mharris@digital-trademarks.com]
Sent: Monday, October 31, 2005 8:58 PM
To: Mary Margaret L. O'Donnell
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

Based on a review of email chains it looks like our redline of the protective order is in your court and we are awaiting your feedback to our suggested changes. Please advise. Thanks.

Marc Harris
Harris Chawla LLC
500 N. Michigan Ave., Suite 300
Chicago, IL 60611
T: 312-692-0119
F: 312-577-0928
mharris@digital-trademarks.com
Digital-Trademarks.com

From: Mary Margaret L. O'Donnell [mailto:MMLO@raderfishman.com]
Sent: Monday, October 31, 2005 4:12 PM
To: mharris@digital-trademarks.com
Cc: Litigation Paralegals; Linda E. Sudzina
Subject: FAMILY DOODLES Proceeding

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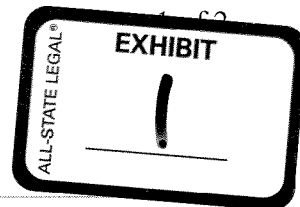
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Subject: RE: FAMILY DOODLES Proceeding

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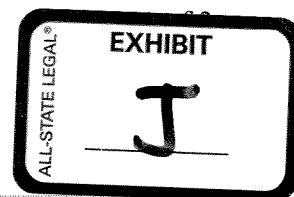
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Sent: Thursday, November 03, 2005 10:48 PM
To: 'Marc Harris'; Mary Margaret L. O'Donnell
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

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From: Marc Harris [mailto:mharris@digital-trademarks.com]
Sent: Tuesday, November 01, 2005 9:50 PM
To: 'Mary Margaret L. O'Donnell'
Cc: 'Litigation Paralegals'; 'Linda E. Sudzina'; 'mchawla@digital-trademarks.com'
Subject: RE: FAMILY DOODLES Proceeding

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Sent: Tuesday, November 01, 2005 7:30 AM
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Subject: FAMILY DOODLES Proceeding

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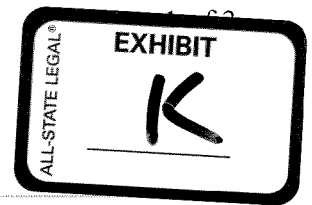
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Mary Margaret L. O'Donnell

From: Mary Margaret L. O'Donnell
Sent: Friday, November 04, 2005 9:47 AM
To: 'Marc Harris'
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

Sure. The documents were served on you on October 3, 2005 by first class mail to the address appearing in your signature block below.

Please find attached scanned copies of the documents that were sent to you (letter to you, PO, responses to interrogatories, responses to document requests, and the responses to the admission requests).

There are several attachments here, so I hope this will not block your e-mail system. Please confirm receipt.

In the meantime, I will look for a redlined version of the PO, but I'm not sure if we kept one or not. I will look over the weekend and let you know by Monday. As soon as we can finalize the PO, we can each supplement our responses and get the document exchange underway.

Best regards,

Mary Margaret

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Subject: RE: FAMILY DOODLES Proceeding

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mharris@digital-trademarks.com
Digital-Trademarks.com

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Sent: Tuesday, November 01, 2005 9:50 PM
To: 'Mary Margaret L. O'Donnell'
Cc: 'Litigation Paralegals'; 'Linda E. Sudzina'; 'mchawla@digital-trademarks.com'

Subject: RE: FAMILY DOODLES Proceeding

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From: Mary Margaret L. O'Donnell [mailto:MMLO@raderfishman.com]
Sent: Tuesday, November 01, 2005 7:30 AM
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Subject: RE: FAMILY DOODLES Proceeding

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65913-0022

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Mary Margaret L. O'Donnell



From: Marc Harris [1926sar@tmo.blackberry.net]
Sent: Friday, November 04, 2005 3:54 PM
To: Mary Margaret L. O'Donnell
Subject: Re: FAMILY DOODLES Proceeding

Sounds good. Thanks.

Marc Harris
M. Stephen Harris & Associates
Digital-Trademarks.com
T: 312-692-0119
F: 312-577-0928
mharris@digital-trademarks.com

-----Original Message-----

From: "Mary Margaret L. O'Donnell" <MMLO@raderfishman.com>
Date: Fri, 4 Nov 2005 09:46:59
To: "Marc Harris" <mharris@digital-trademarks.com>
Cc: "Litigation Paralegals" <LitigationParalegals@raderfishman.com>, "Linda E. Sudzina" <les@raderfishman.com>, <mchawla@digital-trademarks.com>
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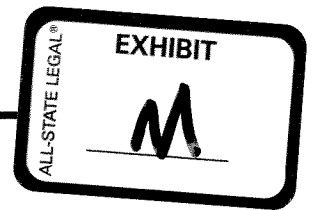
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Mary Margaret L. O'Donnell



From: Mary Margaret L. O'Donnell
Sent: Tuesday, January 31, 2006 1:13 PM
To: 'mharris@digital-trademarks.com'
Cc: Inter Partes Paralegals; Linda E. Sudzina
Subject: Family Labels v. Laura Sheppard FAMILY DOODLES Cancellation

65913-0022



Protective Order
Resend 01.31....

Dear Mark:

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On a side note, I will be out shortly for maternity leave. I can't travel now for depositions, but I'd like to get some scheduled after my return. Please check with your client and see if you can get some dates in May and June. Likewise, I'd like to push out all deadlines for four months to accommodate my absence from the office.

Please advise if you will agree to the four month extension.

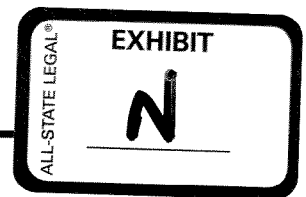
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Mary Margaret L. O'Donnell



From: Marc Harris [mharris@digital-trademarks.com]
Sent: Tuesday, January 31, 2006 2:08 PM
To: Mary Margaret L. O'Donnell; Marc Harris
Cc: Inter Partes Paralegals; Linda E. Sudzina
Subject: Re: Family Labels v. Laura Sheppard FAMILY DOODLES Cancellation

Mary Margaret: I will confirm with my client. In the meantime. Please note that to date we have never received you discover responses. Please forward to my attention via email along with a copy of the certification.

Thanks

Marc Harris
Harris Chawla LLC
Digital-Trademarks.com
T: 312-692-0119
F: 312-577-0928
mharris@digital-trademarks.com

-----Original Message-----

From: "Mary Margaret L. O'Donnell" <MMLO@raderfishman.com>
Date: Tue, 31 Jan 2006 13:12:30
To: <mharris@digital-trademarks.com>
Cc: "Inter Partes Paralegals" <InterPartesParalegals@raderfishman.com>, "Linda E. Sudzina" <les@raderfishman.com>
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<<Protective Order Resend 01.31.06 mmlo (R0335301).DOC>>

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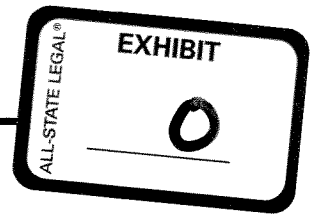
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To: 'mharris@digital-trademarks.com'
Subject: RE: Family Labels v. Laura Sheppard FAMILY DOODLES Cancellation

Actually, you did confirm receiving them, but I will resend them nonetheless.

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To: Mary Margaret L. O'Donnell; Marc Harris
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Date: Tue, 31 Jan 2006 13:12:30
To: <mharris@digital-trademarks.com>
Cc: "Inter Partes Paralegals" <InterPartesParalegals@raderfishman.com>, "Linda E. Sudzina" <les@raderfishman.com>
Subject: Family Labels v. Laura Sheppard FAMILY DOODLES Cancellation

65913-0022

<<Protective Order Resend 01.31.06 mmlo (R0335301).DOC>>

Dear Mark:

We hope the New Year finds you well. We haven't heard back from you on the Protective Order, but are reattaching one hereto for your convenient reference. Once the order is entered, we can work on getting the document exchange underway.

On a side note, I will be out shortly for maternity leave. I can't travel now for depositions, but I'd like to get some scheduled after my return. Please check with your client and see if you can get some dates in May and June. Likewise, I'd like to push out all deadlines for four months to accommodate my absence from the office.

Please advise if you will agree to the four month extension.

Best regards,

Mary Margaret

<<http://www.raderfishman.com/>>

Mary Margaret L. O'Donnell, Esq.

Rader, Fishman & Grauer PLLC

39533 Woodward Ave., Suite 140

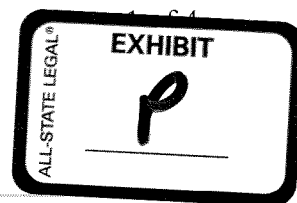
Bloomfield Hills , Michigan 48304

+1-248-594-0649 direct

+1-248-594-0610 facsimile

<<mailto:mmlo@raderfishman.com>> mmlo@raderfishman.com

CONFIDENTIAL AND PRIVILEGED INFORMATION IMPORTANT: The enclosed message and any attachments are intended for the addressee only and are privileged and confidential. If you are not the addressee, then please DO NOT read, copy or distribute the message or any attachment. Please reply to the sender that you received the message in error and delete it. Thank you.



Mary Margaret L. O'Donnell

From: Mary Margaret L. O'Donnell
Sent: Tuesday, January 31, 2006 2:44 PM
To: 'mharris@digital-trademarks.com'
Cc: Inter Partes Paralegals; Linda E. Sudzina
Subject: FW: FAMILY DOODLES Proceeding

Marc:

Here is the message I previously sent you, for which you confirmed receipt. I'll send you your confirmation again as well.

Please let me know whether you consent to the requested extension.

Best regards,

Mary Margaret

-----Original Message-----

From: Mary Margaret L. O'Donnell
Sent: Friday, November 04, 2005 9:47 AM
To: 'Marc Harris'
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

Sure. The documents were served on you on October 3, 2005 by first class mail to the address appearing in your signature block below.

Please find attached scanned copies of the documents that were sent to you (letter to you, PO, responses to interrogatories, responses to document requests, and the responses to the admission requests).

There are several attachments here, so I hope this will not block your e-mail system. Please confirm receipt.

In the meantime, I will look for a redlined version of the PO, but I'm not sure if we kept one or not. I will look over the weekend and let you know by Monday. As soon as we can finalize the PO, we can each supplement our responses and get the document exchange underway.

Best regards,

Mary Margaret

-----Original Message-----

From: Marc Harris [mailto:mharris@digital-trademarks.com]
Sent: Thursday, November 03, 2005 10:48 PM
To: 'Marc Harris'; Mary Margaret L. O'Donnell
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

Mary Margaret – a review of our records indicates that we have not yet received discovery responses – though you indicate that you have forwarded them to our office. Please forward to our attention. Please also let us know when these were forwarded, the address and the tracking information. Thank you.

Marc Harris
Harris Chawla LLC
500 N. Michigan Ave., Suite 300
Chicago, IL 60611
T: 312-692-0119
F: 312-577-0928
mharris@digital-trademarks.com
Digital-Trademarks.com

From: Marc Harris [mailto:mharris@digital-trademarks.com]
Sent: Tuesday, November 01, 2005 9:50 PM
To: 'Mary Margaret L. O'Donnell'
Cc: 'Litigation Paralegals'; 'Linda E. Sudzina'; 'mchawla@digital-trademarks.com'
Subject: RE: FAMILY DOODLES Proceeding

Mary Margaret: would you mind forwarding us a redlined copy of the most recent version you have so we can compare to our most recent draft? We look forward to receiving the document. Thank you.

Marc Harris
Harris Chawla LLC
500 N. Michigan Ave., Suite 300
Chicago, IL 60611
T: 312-692-0119
F: 312-577-0928
mharris@digital-trademarks.com
Digital-Trademarks.com

From: Mary Margaret L. O'Donnell [mailto:MMLO@raderfishman.com]
Sent: Tuesday, November 01, 2005 7:30 AM
To: Marc Harris
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

Thanks for your message. We provided you with a revised copy of the protective order with our responses to Ms. Sheppard's discovery. Did you provide us with further revisions since then? If so, we do not have a copy of such revisions.

Please confirm your receipt of our revised protective order (sent with our discovery responses). We look forward to hearing from you.

Best regards,

Mary Margaret

-----Original Message-----

From: Marc Harris [mailto:mharris@digital-trademarks.com]

Sent: Monday, October 31, 2005 8:58 PM
To: Mary Margaret L. O'Donnell
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

Based on a review of email chains it looks like our redline of the protective order is in your court and we are awaiting your feedback to our suggested changes. Please advise. Thanks.

Marc Harris
Harris Chawla LLC
500 N. Michigan Ave., Suite 300
Chicago, IL 60611
T: 312-692-0119
F: 312-577-0928
mharris@digital-trademarks.com
Digital-Trademarks.com

From: Mary Margaret L. O'Donnell [mailto:MMLO@raderfishman.com]
Sent: Monday, October 31, 2005 4:12 PM
To: mharris@digital-trademarks.com
Cc: Litigation Paralegals; Linda E. Sudzina
Subject: FAMILY DOODLES Proceeding

65913-0022

Dear Marc:

We hope you are well. Please let us know if you have had the opportunity to review the Protective Order we last sent so that we may each supplement our respective discovery responses and get the document exchange underway.

We look forward to hearing from you.

Best regards,

Mary Margaret

Mary Margaret L. O'Donnell, Esq.
Rader, Fishman & Grauer PLLC
39533 Woodward Ave., Suite 140
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+1-248-594-0649 direct
+1-248-594-0610 facsimile
mmlo@raderfishman.com

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Mary Margaret L. O'Donnell

From: Mary Margaret L. O'Donnell
Sent: Tuesday, January 31, 2006 2:46 PM
To: 'mharris@digital-trademarks.com'
Cc: Inter Partes Paralegals; Linda E. Sudzina
Subject: FW: FAMILY DOODLES Proceeding

Marc:

Here is your confirmation. I just re-sent the discovery in the prior e-mail. If for some reason you are receiving the e-mail, but not the PDF attachments, let me know and I will fax or FedEx everything to you.

Best regards,

Mary Margaret

-----Original Message-----

From: Marc Harris [mailto:1926sar@tmo.blackberry.net]
Sent: Friday, November 04, 2005 3:54 PM
To: Mary Margaret L. O'Donnell
Subject: Re: FAMILY DOODLES Proceeding

Sounds good. Thanks.

Marc Harris
M. Stephen Harris & Associates
Digital-Trademarks.com
T: 312-692-0119
F: 312-577-0928
mharris@digital-trademarks.com

-----Original Message-----

From: "Mary Margaret L. O'Donnell" <MMLO@raderfishman.com>
Date: Fri, 4 Nov 2005 09:46:59
To: "Marc Harris" <mharris@digital-trademarks.com>
Cc: "Litigation Paralegals" <LitigationParalegals@raderfishman.com>, "Linda E. Sudzina" <les@raderfishman.com>, <mchawla@digital-trademarks.com>
Subject: RE: FAMILY DOODLES Proceeding

Sure. The documents were served on you on October 3, 2005 by first class mail to the address appearing in your signature block below.

Please find attached scanned copies of the documents that were sent to you (letter to you, PO, responses to interrogatories, responses to document requests, and the responses to the admission requests).

There are several attachments here, so I hope this will not block your e-mail system. Please confirm receipt.

In the meantime, I will look for a redlined version of the PO, but I'm not sure if we kept one or not. I will look over the weekend and let you know by Monday. As soon as we can finalize the PO, we can each supplement our

responses and get the document exchange underway.

Best regards,

Mary Margaret

-----Original Message-----

From: Marc Harris [mailto:mharris@digital-trademarks.com]
Sent: Thursday, November 03, 2005 10:48 PM
To: 'Marc Harris'; Mary Margaret L. O'Donnell
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

Mary Margaret a review of our records indicates that we have not yet received discovery responses though you indicate that you have forwarded them to our office. Please forward to our attention. Please also let us know when these were forwarded, the address and the tracking information. Thank you.

Marc Harris
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F: 312-577-0928
mharris@digital-trademarks.com
Digital-Trademarks.com

From: Marc Harris [mailto:mharris@digital-trademarks.com]
Sent: Tuesday, November 01, 2005 9:50 PM
To: 'Mary Margaret L. O'Donnell'
Cc: 'Litigation Paralegals'; 'Linda E. Sudzina'; 'mchawla@digital-trademarks.com'
Subject: RE: FAMILY DOODLES Proceeding

Mary Margaret: would you mind forwarding us a redlined copy of the most recent version you have so we can compare to our most recent draft? We look forward to receiving the document. Thank you.

Marc Harris
Harris Chawla LLC
500 N. Michigan Ave., Suite 300
Chicago, IL 60611

T: 312-692-0119
F: 312-577-0928
mharris@digital-trademarks.com
Digital-Trademarks.com

From: Mary Margaret L. O'Donnell [mailto:MMLO@raderfishman.com]
Sent: Tuesday, November 01, 2005 7:30 AM
To: Marc Harris
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

Thanks for your message. We provided you with a revised copy of the protective order with our responses to Ms. Sheppard's discovery. Did you provide us with further revisions since then? If so, we do not have a copy of such revisions.

Please confirm your receipt of our revised protective order (sent with our discovery responses). We look forward to hearing from you.

Best regards,

Mary Margaret

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Sent: Monday, October 31, 2005 8:58 PM
To: Mary Margaret L. O'Donnell
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

Based on a review of email chains it looks like our redline of the protective order is in your court and we are awaiting your feedback to our suggested changes. Please advise. Thanks.

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Chicago, IL 60611
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F: 312-577-0928
mharris@digital-trademarks.com
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From: Mary Margaret L. O'Donnell [mailto:MMLO@raderfishman.com]
Sent: Monday, October 31, 2005 4:12 PM
To: mharris@digital-trademarks.com
Cc: Litigation Paralegals; Linda E. Sudzina
Subject: FAMILY DOODLES Proceeding

65913-0022

Dear Marc:

We hope you are well. Please let us know if you have had the opportunity to review the Protective Order we last sent so that we may each supplement our respective discovery responses and get the document exchange underway.

We look forward to hearing from you.

Best regards,

Mary Margaret

<<http://www.raderfishman.com/>>
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Mary Margaret L. O'Donnell

From: Mary Margaret L. O'Donnell
Sent: Wednesday, February 01, 2006 9:24 PM
To: 'mharris@digital-trademarks.com'
Cc: Inter Partes Paralegals; Linda E. Sudzina
Subject: RE: FAMILY DOODLES Proceeding

Dear Marc:

Please confirm receipt of this message and let us know whether you consent to the requested extension given my impending maternity leave. If I do not hear from you by Thursday afternoon, I will be in touch with the interlocutory attorney and will file an unconsented motion.

Best regards,

Mary Margaret

-----Original Message-----

From: Mary Margaret L. O'Donnell
Sent: Tuesday, January 31, 2006 2:44 PM
To: 'mharris@digital-trademarks.com'
Cc: Inter Partes Paralegals; Linda E. Sudzina
Subject: FW: FAMILY DOODLES Proceeding

Marc:

Here is the message I previously sent you, for which you confirmed receipt. I'll send you your confirmation again as well.

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Best regards,

Mary Margaret

-----Original Message-----

From: Mary Margaret L. O'Donnell
Sent: Friday, November 04, 2005 9:47 AM
To: 'Marc Harris'
Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com
Subject: RE: FAMILY DOODLES Proceeding

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Mary Margaret

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From: Marc Harris [mailto:mharris@digital-trademarks.com]

Sent: Thursday, November 03, 2005 10:48 PM

To: 'Marc Harris'; Mary Margaret L. O'Donnell

Cc: Litigation Paralegals; Linda E. Sudzina; mchawla@digital-trademarks.com

Subject: RE: FAMILY DOODLES Proceeding

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Sent: Tuesday, November 01, 2005 9:50 PM

To: 'Mary Margaret L. O'Donnell'

Cc: 'Litigation Paralegals'; 'Linda E. Sudzina'; 'mchawla@digital-trademarks.com'

Subject: RE: FAMILY DOODLES Proceeding

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Subject: RE: FAMILY DOODLES Proceeding

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Best regards,

Mary Margaret

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Sent: Monday, October 31, 2005 8:58 PM
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Subject: RE: FAMILY DOODLES Proceeding

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Sent: Monday, October 31, 2005 4:12 PM
To: mharris@digital-trademarks.com
Cc: Litigation Paralegals; Linda E. Sudzina
Subject: FAMILY DOODLES Proceeding

65913-0022

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We look forward to hearing from you.

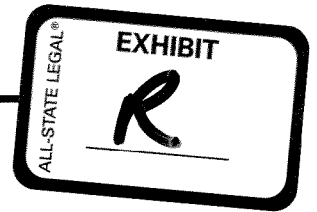
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Mary Margaret

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Mary Margaret L. O'Donnell



From: mharris@digital-trademarks.com
Sent: Thursday, February 02, 2006 5:05 PM
To: Mary Margaret L. O'Donnell
Cc: mharris@digital-trademarks.com
Subject: Extension Request

Mary Margaret - Please confirm your receipt. Thanks.

-----Forwarded message -----

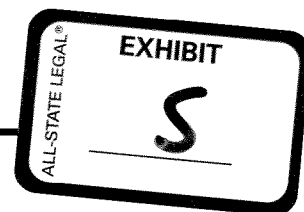
From: mharris@digital-trademarks.com
To: MMLO@raderfishman.com
Cc: mchawla@digital-trademarks.com; mharris@digital-trademarks.com
Subject: Extension Request
Date: Thu, 02 Feb 2006 13:15:48 -0500

Mary Margaret:

Note that I am still waiting to hear back from my client regarding the request for extension. However, I am confident that my client will see this is merely an unnecessary delay - especially given the fact that a review of your Firm's website indicates a number of other attorney's who appear capable of dealing with this case during your absence. I would advise you to file your unconsented motion.

Marc Harris
Harris Chawla LLC
P: 312-321-4778
F: 312-577-0928

Mary Margaret L. O'Donnell



From: Mary Margaret L. O'Donnell
Sent: Thursday, February 02, 2006 5:55 PM
To: 'mharris@digital-trademarks.com'
Cc: Inter Partes Paralegals
Subject: RE: Extension Request

65913-0022

Dear Marc: I did not receive the earlier e-mail that you sent below. I tried calling you again at the office, but was unable to reach you.

The request is to extend out the dates, not to suspend. The extension will give both parties adequate time to complete discovery and does not mean that discovery will not proceed in my absence. We are still waiting on return of the protective order from you, and I am sure that you would agree that we need to have that in place to complete discovery and have the necessary documents on hand for the depositions. Given that I am about to go out on maternity leave for three months, the four month extension request is reasonable in our view, so that depositions can be taken the month when I return to the office. This is why I have asked you for available deposition dates during the months of May and June.

Because we have not heard back from you regarding the protective order and deposition dates and because we expect discovery to continue during my absence, I am sure your client will not see our short extension request as an "unnecessary delay."

I look forward to hearing from you regarding the protective order and the deposition dates and will file the unconsented motion per your suggestion.

Best regards,

Mary Margaret

Mary Margaret L. O'Donnell, Esq.
Rader, Fishman & Grauer PLLC
39533 Woodward Ave., Suite 140
Bloomfield Hills, Michigan 48304
+1-248-594-0649 direct
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Subject: Extension Request

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To: MMLO@raderfishman.com
Cc: mchawla@digital-trademarks.com; mharris@digital-trademarks.com
Subject: Extension Request
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